

## **REMARKS**

This is a full and timely response to the outstanding Final Office Action mailed October 21, 2010. Upon entry of the amendments in this response, claims 42 – 52 are pending. In particular, Applicant adds claims 42 – 52, and cancels claims 32 - 41 without prejudice, waiver, or disclaimer. Applicant cancels claims 32 - 41 merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these canceled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate the canceled subject matter to the public. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

### **I. Rejections Under 35 U.S.C. §112**

The Office Action indicates that claim 41 stands rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Additionally, the Office Action indicates that claims 32 – 36 and 41 stand rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In this regard, and without commenting substantively on the propriety of the rejections, Applicant has canceled the aforementioned claims and respectfully asserts that the rejections have been rendered moot.

### **II. Rejections Under 35 U.S.C. §103**

The Office Action indicates that claims 32 – 35 and 41 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,738,064 (“*Lowe*”) in view of U.S. Patent Number 5,065,476 (“*Dohse*”). Additionally, the Office Action indicates that claim 36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Lowe* in view of *Dohse* and

further in view of U.S. Patent Number 3,494,431 ("Yoho"). In this regard, and without commenting substantively on the propriety of the rejections, Applicant has canceled the aforementioned claims and respectfully asserts that the rejections have been rendered moot.

### III. Newly Added Claims

Upon entry of the amendments in this response, Applicant has added new claims 42 – 52. No new matter is believed to be added by these amendments as support for the amendments may be found in the specification and drawings as originally filed. These new claims are also believed to be in condition for allowance in that the cited art does not teach or reasonably suggest the combinations of features recited in these claims.

In this regard, independent claim 42 recites:

42. A handle forming part of a hand held engine power tool, the handle comprising:  
a first handle section and a second handle section;  
***the first handle section having a supporting section with a first surface and a second surface, a space being defined between the first surface and the second surface, the first surface having a first hole formed therethrough, the second surface having a second hole formed therethrough;***  
a control component operative to control power of the tool, the control component having a mounting hole formed therethrough; and  
***a locking pin sized and shaped to be inserted through the first hole, the mounting hole and the second hole and to be retained by the supporting section such that the control component spans the space and is pivotally supported by the supporting section of the first handle section.***

(Emphasis added).

Applicant respectfully asserts that the cited art is legally deficient for the purpose of rendering claim 42 unpatentable. In particular, the cited art (either individually or in combination) does not teach or reasonably suggest at least the features emphasized above in claim 42. Specifically, the cited art does not teach or reasonably suggest at least "the first handle section having a supporting section with a first surface and a second surface, a space being defined between the first surface and the second surface, the first surface having a

first hole formed therethrough, the second surface having a second hole formed therethrough” in combination with “a locking pin sized and shaped to be inserted through the first hole, the mounting hole and the second hole and to be retained by the supporting section such that the control component spans the space and is pivotally supported by the supporting section of the first handle section” as recited in claim 42. Therefore, Applicant respectfully asserts that claim 42 is in condition for allowance.

**B. Dependent Claims are Allowable**

Dependent claims 43 - 52 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 42. See *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002). Additionally, these claims recite other features that can serve as independent bases for patentability. For example, claim 46 recites the additional element of a safety button, wherein:

... the safety button has a keyhole-shaped opening;  
the first handle section has a pin extending in a transverse  
direction relative to a longitudinal axis of the safety button; and  
the keyhole-shaped opening is operative to engage about the pin  
and secure the safety button to the pin such that the safety button pivots  
about the pin.

Claim 47 additionally recites, “The handle of claim 46, wherein the second handle section has a protruding circle-shaped edge positioned to receive a distal end of the pin and support the pin responsive to loading of the safety button.” Applicant respectfully asserts that the cited art is legally deficient for the purpose of rendering claims 46 and 47 unpatentable, as the cited art does not teach or reasonably suggest at least these additional features. Therefore, Applicant respectfully asserts that claims 46 and 47 clearly are in condition for allowance.


### **CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

  
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